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**SENATE BILL 5197**

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**State of Washington**

**69th Legislature**

**2025 Regular Session**

**By** Senators Salomon, Liias, and Nobles

Prefiled 01/09/25. Read first time 01/13/25. Referred to Committee on Local Government.

1 AN ACT Relating to ensuring that local government planning  
2 complies with the growth management act; and amending RCW 36.70A.302  
3 and 36.70A.330.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 36.70A.302 and 2010 c 211 s 10 are each amended to  
6 read as follows:

7 (1) The board may determine that part or all of a comprehensive  
8 plan or development regulations are invalid if the board:

9 (a) Makes a finding of noncompliance and issues an order of  
10 remand under RCW 36.70A.300;

11 (b) Includes in the final order a determination, supported by  
12 findings of fact and conclusions of law, that the continued validity  
13 of part or parts of the plan or regulation would substantially  
14 interfere with the fulfillment of the goals of this chapter; and

15 (c) Specifies in the final order the particular part or parts of  
16 the plan or regulation that are determined to be invalid, and the  
17 reasons for their invalidity.

18 (2) A determination of invalidity is prospective in effect and  
19 does not extinguish rights that vested under state or local law  
20 before receipt of the board's order by the city or county. The  
21 determination of invalidity does not apply to a completed development

1 permit application for a project that vested under state or local law  
2 before receipt of the board's order by the county or city or to  
3 related construction permits for that project.

4 (3) (a) Except as otherwise provided in subsection (2) of this  
5 section and (b) of this subsection, a development permit application  
6 not vested under state or local law before receipt of the board's  
7 order by the county or city vests to the local ordinance or  
8 resolution that is determined by the board not to substantially  
9 interfere with the fulfillment of the goals of this chapter.

10 (b) Even though the application is not vested under state or  
11 local law before receipt by the county or city of the board's order,  
12 a determination of invalidity does not apply to a development permit  
13 application for:

14 (i) A permit for construction by any owner, lessee, or contract  
15 purchaser of a single-family residence for his or her own use or for  
16 the use of his or her family on a lot existing before receipt by the  
17 county or city of the board's order, except as otherwise specifically  
18 provided in the board's order to protect the public health and  
19 safety;

20 (ii) A building permit and related construction permits for  
21 remodeling, tenant improvements, or expansion of an existing  
22 structure on a lot existing before receipt of the board's order by  
23 the county or city; and

24 (iii) A boundary line adjustment or a division of land that does  
25 not increase the number of buildable lots existing before receipt of  
26 the board's order by the county or city.

27 (4) If the ordinance that adopts a plan or development regulation  
28 under this chapter includes a savings clause intended to revive prior  
29 policies or regulations in the event the new plan or regulations are  
30 determined to be invalid, the board shall determine under subsection  
31 (1) of this section whether the prior policies or regulations are  
32 valid during the period of remand.

33 (5) A county or city subject to a determination of invalidity may  
34 adopt interim controls and other measures to be in effect until it  
35 adopts a comprehensive plan and development regulations that comply  
36 with the requirements of this chapter. A development permit  
37 application may vest under an interim control or measure upon  
38 determination by the board that the interim controls and other  
39 measures do not substantially interfere with the fulfillment of the  
40 goals of this chapter.

1 (6) A county or city subject to a determination of invalidity may  
2 file a motion requesting that the board clarify, modify, or rescind  
3 the order. The board shall expeditiously schedule a hearing on the  
4 motion. At the hearing on the motion, the parties may present  
5 information to the board to clarify the part or parts of the  
6 comprehensive plan or development regulations to which the final  
7 order applies. The board shall issue any supplemental order based on  
8 the information provided at the hearing not later than thirty days  
9 after the date of the hearing.

10 (7) (a) If a determination of invalidity has been made and the  
11 county or city has enacted an ordinance or resolution amending or  
12 repealing the invalidated part or parts of the plan or regulation or  
13 establishing interim controls on development affected by the order of  
14 invalidity, after a compliance hearing, the board shall modify or  
15 rescind the determination of invalidity if it determines under the  
16 standard in subsection (1) of this section that the plan or  
17 regulation, as amended or made subject to such interim controls, or  
18 as it exists after invalidated portions of the plan or regulation  
19 have been repealed, will no longer substantially interfere with the  
20 fulfillment of the goals of this chapter.

21 (b) If the board determines that part or parts of the plan or  
22 regulation are no longer invalid as provided in this subsection, but  
23 does not find that the plan or regulation is in compliance with all  
24 of the requirements of this chapter, the board, in its order, may  
25 require periodic reports to the board on the progress the  
26 jurisdiction is making towards compliance.

27 **Sec. 2.** RCW 36.70A.330 and 2021 c 312 s 2 are each amended to  
28 read as follows:

29 (1) After the time set for complying with the requirements of  
30 this chapter under RCW 36.70A.300(3)(b) has expired, or at an earlier  
31 time upon the motion of a county or city subject to a determination  
32 of invalidity under RCW 36.70A.300, the board shall set a hearing for  
33 the purpose of determining whether the state agency, county, or city  
34 is in compliance with the requirements of this chapter.

35 (2) The board shall conduct a hearing and issue a finding of  
36 compliance or noncompliance with the requirements of this chapter and  
37 with any compliance schedule established by the board in its final  
38 order. The board may not issue a finding of compliance if a county or  
39 city subject to a determination of invalidity under RCW 36.70A.300

1 has repealed the plan or regulations that were found noncompliant,  
2 unless the plan or regulations that will be in effect after such a  
3 repeal are compliant with the requirements of this chapter. A person  
4 with standing to challenge the legislation enacted in response to the  
5 board's final order may participate in the hearing along with the  
6 petitioner and the state agency, county, or city. A hearing under  
7 this subsection shall be given the highest priority of business to be  
8 conducted by the board, and a finding shall be issued within forty-  
9 five days of the filing of the motion under subsection (1) of this  
10 section with the board. The board shall issue any order necessary to  
11 make adjustments to the compliance schedule and set additional  
12 hearings as provided in subsection (5) of this section.

13 (3) If the board after a compliance hearing finds that the state  
14 agency, county, or city is not in compliance, the board shall  
15 transmit its finding to the governor.

16 (a) The board may refer a finding of noncompliance to the  
17 department. The purpose of the referral is for the department to  
18 provide technical assistance to facilitate speedy resolution of the  
19 finding of noncompliance and to provide training pursuant to RCW  
20 36.70A.332 as necessary.

21 (b) Alternatively, the board may recommend to the governor that  
22 the sanctions authorized by this chapter be imposed. The board shall  
23 take into consideration the county's or city's efforts to meet its  
24 compliance schedule in making the decision to recommend sanctions to  
25 the governor.

26 (4) In a compliance hearing upon petition of a party, the board  
27 shall also reconsider its final order and decide, if no determination  
28 of invalidity has been made, whether one now should be made under RCW  
29 36.70A.302.

30 (5) The board shall schedule additional hearings as appropriate  
31 pursuant to subsections (1) and (2) of this section.

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